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In re Application of
BAUMANN et al.
Application No.: 10/089,053
PCT No.: PCT/DE01/02746
Int. Filing Date: 20 July 2001
Priority Date: 02 August 2000
Attorney Docket No.: 2081
For: DISC BRAKE THAT IS ACTUATED BY MEANS
OF A BAND BRAKE DEVICE

DECISION ON
PETITION UNDER 37 CFR 1.181

This is a decision on applicant's 23 March 2004 "PETITION TO WITHDRAW HOLDING OF ABANDONMENT", requesting acceptance of declaration originally filed on 18 June 2002, in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 March 2002, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and English translation of the international application.

On 04 June 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), an English translation of the international application and surcharge for filing the oath or declaration and processing fee for filing the English translation after the thirty month period, was required.

On 18 June 2002, applicant filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b) and the \$130 surcharge for filing the declaration after the 30 month period.

On 25 February 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the 04 June 2002 Notification of Missing Requirements.

On 23 March 2004, applicant filed, *inter alia*, a copy of an itemized postcard bearing a USPTO mail room date-stamped of 18 June 2002 indicating that executed declaration and surcharge were deposited with the USPTO on 18 June 2002.

DISCUSSION

A review of the application file reveals that the original declaration filed on 18 June 2002 is located in the application file. A review of the application file also reveals that an English

translation of the international application is not necessary, as indicated in the Notification of Missing Requirements, as the English translation of the international application was filed with the request for entry into the U.S. national stage on 22 March 2002, prior to the expiration of the 30 month period (02 February 2003). Thus, a processing fee for filing the English translation after the thirty month period is not required..

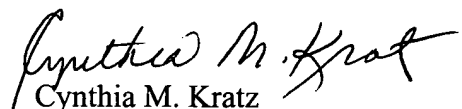
A review of the declaration filed on 18 June 2002 indicates that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor and thus, is in compliance with 37 CFR 1.497(a) & (b) and acceptable. A review of the finance records for 10/089,053 indicates that the \$130 surcharge for filing the declaration after the thirty month period was paid on 18 June 2002.

CONCLUSION

The petition under 37 CFR 1.181 is **MOOT**. The declaration submitted on 18 June 2002 is acceptable and meet the requirements of 37 CFR 1.497(a) and (b).

The 25 February 2004 Notification of Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 June 2002**.


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